

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

§
IMPERIUM IP HOLDINGS (CAYMAN),
LTD., §
§
§ Case No.: 4:14-cv-00371-RC-ALM

Plaintiff,
v.

§
SAMSUNG ELECTRONICS CO., LTD., §
SAMSUNG ELECTRONICS AMERICA, §
INC., SAMSUNG §
TELECOMMUNICATINS AMERICA, §
LLC, SAMSUNG SEMICONDUCTOR, §
INC., SAMSUNG TECHWIN CO., LTD., §
AND SAMSUNG OPTO-ELECTRONICS §
AMERICA, INC. (D/B/A/ SAMSUNG §
TECHWIN AMERICA), §

Defendants.

**IMPERIUM IP HOLDINGS (CAYMAN), LTD.'S SUPPLEMENTAL SUR-REPLY IN
OPPOSITION TO DEFENDANTS SAMSUNG TECHWIN CO., LTD. AND
SAMSUNG OPTO-ELECTRONICS AMERICA, INC.'S MOTION TO DISMISS OR
ALTERNATIVELY TO SEVER THE PROCEEDINGS (DKT. NO. 47)**

The possible future acquisition of Samsung Techwin by Hanwha Group does not impact the analysis of Samsung Techwin's request for severance under the applicable *In re EMC* test. The proposed sale has not occurred, and indeed may never occur. As of today, the employees of Samsung Techwin are attempting to block the sale and refusing to negotiate. (See Ex. Q, *Samsung Techwin Staff Call for Samsung Group to Cancel Its Deal with Hanwha*, Korea IT Times, December 5, 2014.) And if the sale ever does occur, it will not change the undisputed facts that (1) Samsung Electronics owned at least 25% of Samsung Techwin during the entire past damages period,¹ and (2) that Samsung Electronics transferred its security business to Samsung Techwin during that period.² These facts, among others, establish that joinder of Samsung Techwin and Samsung Electronics is appropriate under the *EMC* test. As such, Imperium respectfully requests that the Court deny Samsung Techwin's motion.

¹ See Dkt. No. 47-2 at 9; Dkt. No. 47 at 6, Dkt. No. 49 at 5-6; Dkt. No. 50 at 6.

² See Dkt. No. 50 at 6, 7.

Date: December 5, 2014

Respectfully submitted,

/s/ Alan M. Fisch

Alan M. Fisch

alan.fisch@fischllp.com

R. William Sigler (*pro hac vice*)

bill.sigler@fischllp.com

Jennifer K. Robinson (*pro hac vice*)

jennifer.robinson@fischllp.com

FISCH SIGLER LLP

5335 Wisconsin Avenue NW

Eighth Floor

Washington, DC 20015

Tel: (202) 362-3500

Silvia Jordan (*pro hac vice*)

silvia.jordan@fischllp.com

FISCH SIGLER LLP

432 Park Avenue South

Fourth Floor

New York, NY 10016

Tel: (212) 235-0440

David M. Saunders (*pro hac vice*)

david.saunders@fischllp.com

Desmond Jui (*pro hac vice*)

desmond.jui@fischllp.com

FISCH SIGLER LLP

96 North Third Street

Suite 260

San Jose, CA 95112

Tel: (650) 362-8200

Attorneys for Imperium IP Holdings

(Cayman), Ltd.

CERTIFICATE OF SERVICE

I hereby certify that on December 5, 2014, the foregoing document was filed electronically in compliance with Local Rule CV-5(a) and served via email upon counsel of record.

By: */s/ Alan M. Fisch*
Alan M. Fisch